

Atty. Docket No. 696.005

REMARKS

Please note the fact that November 4, 2006, fell on a Sunday ensures that this paper is timely filed as of today, Monday, November 6, 2006 (the next succeeding day which is not a Saturday or Sunday).

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejection present in the outstanding Office Action in light of the following remarks.

In the Office Action dated November 4, 2006, pending Claims 1-13 were rejected and the rejection made final. Of these claims, Claims 1 and 13 are independent claims; the remaining claims are dependent claims. Claims 1 and 13 have been rewritten. Applicants intend no change in the scope of the claims by the changes made by these amendments. It should also be noted these amendments are not in acquiescence of the Office's position on allowability of the claims, but merely to expedite prosecution.

Claims 1-13 stand rejected under 35 USC § 103(a) as obvious over Herz et al. (hereinafter "Herz") in view of Dahm et al. (hereinafter "Dahm"). Specifically the Office asserted that "[i]t would have been obvious ... implement Dahm's defunct threshold in Herz's customized price and promotion system. One would be motivated to set up a threshold value as taught in Dahm in order to predict a customer who is most likely to churn or discontinue the service, and provide a proper offer to retain such customers. It would be obvious to use Herz's profile attributes, such as the last interaction of the

customer with the web site, and set a threshold value to determine the probability that the customer would become a defunct.” Reconsideration and withdrawal of the present rejections are hereby respectfully requested.

A 35 USC 103(a) rejection requires that the combined cited references provide both the motivation to combine the references and an expectation of success. Not only is there no motivation to combine the references, no expectation of success, but actually combining the references would not produce the claimed invention. Thus, the claimed invention is patentable over the combined references and the state of the art.

The present invention broadly contemplates enabling Internet businesses to utilize Internet transaction information to conduct real-time online experiments on a sample of transactions and determine marketplace sensitivities. (Page 6, paragraph 0024, lines 1-4) The results of these experiments are analyzed to reveal optimal values of key market decision variables. (Page 6, paragraph 0024, lines 4-6)

As best understood, the invention set forth by Herz contemplates a system with the ability to automatically determine which products a shopper would be most likely to buy, and which offers a vendor should make available to the shopper in order to maximize the vendor's profit. (Paragraph 0002, lines 1-5) The system constructs and updates shopper profiles based on specific demographic information and history of their shopping behavior. (Paragraph 0002, lines 5-9) These profiles are used to determine products and offers to present to shoppers. (Paragraph 0002, lines 9-13)

As best understood, the invention set forth by Dahm contemplates providing subscriber loyalty and retention techniques that allow mobile telephone subscribers who have been identified as likely candidates to discontinue service and switch to another provider to efficiently review an offer for a mobile service plan that better meets subscriber needs. (Column 2, lines 20-25) Dahm uses billing records and/or demographic information to identify subscribers that may be likely candidates to switch providers. (Column 2, lines 33-35)

The outstanding Office Action takes the position that Herz teaches providing a promotion to the customer based on customer behavior. It is respectfully submitted that Herz et al. clearly falls short of teaching certain attributes of the present invention (as defined by the independent claims) in that, *inter alia*, it does not disclose specifying a defunct threshold or determining a probability that a user may become defunct. Dahm appears to calculate the probability that a subscriber would leave the service provider. However, any defunct threshold which may Dahm use to determine the likelihood of losing a subscriber is not performed continually or in real-time, as is evidenced by Dahm only periodically updating profiles or performing certain customer loyalty functions only in response to customer actions. Thus, it is respectfully submitted that Dahm clearly falls short of teaching the attribute of the present invention (as defined by the independent claims) to which it refers in that, *inter alia*, any defunct threshold which Dahm may determine -- which may or may not be applicable to the instant invention or technically combinable with the teachings of Herz -- is not performed in real-time or continuously.

The instantly claimed invention requires specifically "specifying a permissible defunct threshold; specifying a range of offers to be included in a set of promotions; determining a probability that a customer will become defunct after a predetermined period of time has occurred since the last interaction of that customer with the web site; and providing a promotion selected from the set of promotions to a customer if the probability that the customer will become defunct after the predetermined period of time has occurred since the last interaction of that customer with the web site is greater than the permissible defunct threshold; wherein the method is performed in real-time." (Claim 1; other independent claims have similar language). Neither Herz nor Dahm, nor the combination of the two, teaches determining a probability that a customer will not return to the website after a predetermined period of time has occurred since the last interaction of the customer with the web site in real-time. In actuality, the combination of Herz and Dahm teach away from performing such a method in real-time.

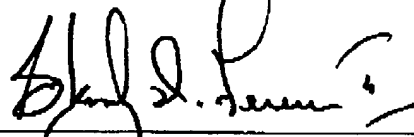
A 35 USC 103(a) rejection requires that the combined cited references provide both the motivation to combine the references and an expectation of success. Not only is there no motivation to combine the references, no expectation of success, but actually combining the references would not produce the claimed invention. Thus, the claimed invention is patentable over the combined references and the state of the art.

In view of the foregoing, it is respectfully submitted that independent Claims 1 and 13 fully distinguish over the applied art and are thus allowable. By virtue of dependence from Claim 1, it is thus also submitted that Claims 2-12 are also allowable at this juncture.

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In summary, it is respectfully submitted that the instant application, including Claims 1-13, are presently in condition for allowance. Notice to the effect is hereby earnestly solicited. Applicants' undersigned attorney would welcome further discussion with the Office in the event there are any further issues in this application.

Respectfully submitted,



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